



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

REF
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IFW

In re Application of

Atty. Docket

PAOLA CARRAI ET AL.

PHIT 000001

SERIAL NO.: 09/759,022

GROUP ART UNIT: 2671

FILED: January 11, 2001

EXAMINER: L.T. McCartney

TEXT IMPROVEMENT

Honorable Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

PETITION UNDER 37 C.F.R. 1.181


In response to the Communication Re: Appeal mailed November 30, 2004 (copy enclosed), indicating that Applicants' Appeal of the decision of the Examiner is dismissed in that "A Notice of Appeal as required by 37 CFR 1.191 was not timely submitted and the period for obtaining an extension of time to file the Notice of Appeal under 37 CFR 1.136 has expired", and that "Because of the dismissal of the appeal, this application is abandoned because there are no allowed claims", Applicants hereby petition to withdraw the holding of abandonment in that there is no abandonment in fact.

In particular, Applicants received an Office Action mailed September 15, 2003, in which the Examiner finally rejected all of the claims in the above application. In response thereto,

Applicants had filed a Response under 37 C.F.R. 1.116 on October 14, 2003. Upon receipt of an Advisory Action from the Examiner mailed November 5, 2003, Applicants had filed a Notice of Appeal bearing a mailing certification dated December 4, 2003 (prior to the expiration of the 3-month shortened statutory period for responding to the Final Office Action. Further, Applicants had filed a Brief For Appellants bearing a mailing certificate dated January 12, 2005. Attached hereto is a copy of Applicants' Notice of Appeal and Applicants' Brief for Appellants (plus cover sheet).

In view of the above, Applicants submit that there is no abandonment in fact, and respectfully request that this application be passed on to the Board of Patent Appeals and Interferences for processing of the appeal.

Respectfully submitted,

by 
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Attorney
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CERTIFICATE OF MAILING

It is hereby certified that this correspondence is being deposited with the United States Postal Service as First-class mail in an envelope addressed to:

COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

On Dec. 08, 2004

By Burnett James